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7 *Attorneys for Defendant State of Nevada,
Nevada State Board of Massage Therapists.*

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9
10 UNITED STATES DISTRICT COURT
11 DISTRICT OF NEVADA
12

13 HONGFEN ZHANG, Individually,
14 Plaintiff,

Case No.

15 v.

16 STATE OF NEVADA; NEVADA STATE
BOARD OF MASSAGE THERAPISTS,
17 a state agency; DOES 1-10, inclusive;
18 and ROE CORPORATIONS 1-10,
inclusive,

19 Defendants.

DEFENDANTS' INDEX OF EXHIBITS
TO NOTICE OF REMOVAL

20 Exhibit A

Summons

21 Exhibit B

Complaint

EXHIBIT A

EXHIBIT A

RECEIVED

JAN 15 2008

ATTORNEY GENERAL'S OFFICE
LITIGATION - CC

A551595

XX/1

RECEIVED

DEC 27 2007

ATTORNEY GENERAL'S OFFICE
LITIGATION - CC

DISTRICT COURT

CLARK COUNTY, NEVADA

HONGFEN ZHANG,

Plaintiff,

vs.

STATE OF NEVADA; NEVADA STATE
BOARD OF MASSAGE THERAPISTS,

Defendant.

Case No: A

Dept. No:

SUMMONS

NOTICE! YOU HAVE BEEN SUED. THE COURT MAY DECIDE AGAINST YOU WITHOUT YOUR BEING HEARD UNLESS YOU RESPOND WITHIN 20 DAYS. READ THE INFORMATION BELOW.

TO THE DEFENDANT(S): A civil complaint has been filed by the Plaintiff(s) against you for the relief set forth in the Complaint.

1. If you intend to defend this lawsuit, within 20 days after this Summons is served on you, exclusive of the date of service, you must do the following:

- a. File with the Clerk of this Court, whose address is shown below, a formal written response to the Complaint in accordance with the rules of this Court, with the appropriate filing fee.
- b. Serve a copy of your response upon the attorney whose name and address is shown below.

2. Unless you respond, your default will be entered upon application of the Plaintiff(s) and this court may enter a judgment against you for the relief demanded in the Complaint, which could result in the taking of money or property or other relief requested in the Complaint.

3. If you intend to seek the advice of an attorney in this matter, you should do so promptly so that your response may be filed on time.

4. The State of Nevada, its political subdivisions, agencies, officers, employees, board members, commission members and legislators, each have 45 days after service of this summons within which to file an answer or other responsive pleading to the Complaint.

Issued at the direction of:

CHARLES J. SHORT, CLERK OF COURT

KIRK T. KENNEDY, ESQ.
815 S. Casino Center Blvd.
Las Vegas, NV 89101
(702) 385-5534
Attorney for Plaintiff

By: *[Signature]*
Deputy Clerk
200 Lewis Ave.
Las Vegas, NV 89155

Date

11/13/07

DISTRICT COURT
CLERK'S SEAL

EXHIBIT B

EXHIBIT B

RECEIVED

JAN 15 2008

FILED

RECEIVED

Nov 13 8 31 AM '07

DEC 27 2007

ATTORNEY GENERAL'S OFFICE
LITIGATION - CC

COM
KIRK T. KENNEDY, ESQ.
Nevada Bar No: 5032
815 S. Casino Center Blvd.
Las Vegas, NV 89101
(702) 385-5534
Attorney for Plaintiff

Chris [Signature]
CLERK OF THE COURT

ATTORNEY GENERAL'S OFFICE
LITIGATION - CC

DISTRICT COURT

CLARK COUNTY, NEVADA

HONGFEN ZHANG,
Individually,

Plaintiff,

Case No:
Dept. No:

A551595
XX/1

vs.

STATE OF NEVADA; NEVADA
STATE BOARD OF MASSAGE
THERAPISTS; a state agency;
DOES 1-10, inclusive; ROE
CORPORATIONS 1-10, inclusive,

Defendants.

COMPLAINT

COMES NOW, the Plaintiff, HONGFEN ZHANG, by and through her undersigned counsel, KIRK T. KENNEDY, ESQ., who files this Complaint against the Defendant and would allege as follows:

1. Plaintiff, HONGFEN ZHANG, is a resident of Clark County, Nevada and did so reside herein during all events complained of in this action.
2. Defendants, STATE OF NEVADA and the NEVADA STATE BOARD OF MASSAGE THERAPISTS, is a Nevada political agency and/or political entity and did so operate and exist herein during all events complained of in this action.
3. Plaintiff is unaware of the true names and capacities of defendants sued herein as Does 1-10 and Roe Corporations 1-10, and will amend his complaint to show their true names and capacities when the same are ascertained. Plaintiff is informed and believes

1 and thereon alleges that each of these fictitiously named defendants is responsible in
2 some manner for the occurrences herein alleged, and that Plaintiff's injuries as herein
3 alleged were proximately caused by the aforementioned defendants. Plaintiff is further
4 informed and believes and thereon alleges that at all times herein mentioned each and
5 every defendant was the agent and employee of the remaining defendants and, in doing
6 the things hereinafter alleged, was acting within the course and scope of such agency and
7 employment. Each defendant, in doing the acts alleged herein, was acting with the
8 consent, permission and authorization of each of the remaining defendants.

9 4. Both jurisdiction and venue are appropriate as the events given rise to this action
10 occurred in Clark County, Nevada; the Defendants operated in Clark County, Nevada;
11 and the amount in controversy exceeds the jurisdictional minimum of this Court.

12 5. On or about July, 2007, Plaintiff was granted a restricted massage license, number
13 NVMT-2777, under probationary terms and conditions from the Defendant Nevada State
14 Board of Massage Therapists.

15 6. Subsequent to the issuance of the probationary, restricted license, Plaintiff alleges that
16 through investigation, the actions of the Defendant Board reveal that certain classes of
17 license applicants receive or have received more favorable treatment than others
18 regarding their license applications and/or outcomes related to revocation hearings.

19 7. Plaintiff, an Asian female, is a member of a class of Asian females who routinely
20 receive less favorable treatment, consideration and/or conduct than non-Asian
21 applicants/license holders to the Defendant Board for license applications, license related
22 hearings and/or revocation hearings.

23 8. The Defendant Board routinely decides or rules that Asian applicants/license holders
24 receive more difficult, more stringent and/or more burdensome conditions and/or work
25 restrictions to their licenses, than non-Asian applicants/license holders regarding license
26 applications, license-related hearings and/or revocation hearings.

27 9. As a direct and proximate result of the above conduct by the Defendants and other
28

conduct, the Plaintiff has suffered harm and damages according to proof at trial.

FIRST CLAIM FOR RELIEF

42 U.S.C. SECTION 1983

10. Plaintiff realleges, readopts and reincorporates the allegations contained in paragraphs 1 through 9 as though fully set forth herein.

11. The Defendants' acts and omissions complained of herein were done by Defendant, and its agents, while acting under color of law, and said acts and omissions subjected Plaintiff to the deprivation of well established rights secured by the federal constitution and by the statutes of the United States and Nevada, including the rights to both procedural and substantive Due Process and the right to equal protection of the laws under the Equal Protection Clause.

12. The well-established rights referred to in paragraph 11 above were rights which were known or should have been known to any reasonable person, and therefore Defendants are not immune from liability for depriving Plaintiff of said rights.

Additionally, the Defendant Board's conduct as referenced in this complaint amounts to bad faith actions/conduct which is not subject to immunity protections under N.R.S.622A et seq; N.R.S. 41.032 et seq. and/or any other Nevada state law immunity protection. Bad faith conduct is excluded from immunity protections for state actors/agencies.

13. The acts and omissions of Defendants complained of herein, except for those done negligently, were done with the intent to deprive Plaintiff of her Equal Protection Clause rights and Due Process related rights against the public policy of the State of Nevada and the United States.

14. Said acts and omissions constituted a conscious failure on the part of Defendants to protect the Plaintiff from harm and the deprivation of the rights referred to in paragraph 11 above.

15. The actions of the Defendants as described above were done pursuant to a custom, practice and/or policy of the Defendants designed and/or intended to cause harm to Plaintiff contrary to state law and the public policy in the State of Nevada in an effort to

cause harm to Plaintiff.

16. As a direct and proximate result of the Defendant's actions, Plaintiff suffered harm and damages in an amount according to proof at trial.

SECOND CLAIM FOR RELIEF

NEGLIGENT SUPERVISION

17. Plaintiff realleges, readopts and reincorporates the allegations contained in paragraphs 1 through 16 as though fully set forth herein.

18. Defendants STATE OF NEVADA and NEVADA STATE BOARD OF MASSAGE THERAPISTS are responsible for the supervision and employment of its agents, to insure that said agents performed their duties and functions in accordance with state and federal law.

19. Defendants negligently, willfully, carelessly and recklessly failed to properly supervise its agents related to the conduct referred to in paragraphs 5, 6, 7, 8 and 11 causing harm to Plaintiff.

20. As a direct and proximate result of this negligent supervision by Defendant, Plaintiff suffered harm and damages in an amount according to proof at trial

THIRD CLAIMS FOR RELIEF

DECLARATORY RELIEF

21. Plaintiff realleges, readopts and reincorporates the allegations contained in paragraphs 1 through 20 as though fully set forth herein.

22. Plaintiff moves this Court, pursuant to Nevada law, for declaratory relief regarding the actions and conduct of the Board, to declare and/or order that the Board's unequal conduct in the manner it treats, considers and rules upon matters related to Asian applicants and Asian license holders as opposed to non-Asian applicants and license holders violates state and federal law and, further, that such conduct is done in bad faith and not subject to any immunity protections for these State Defendants.

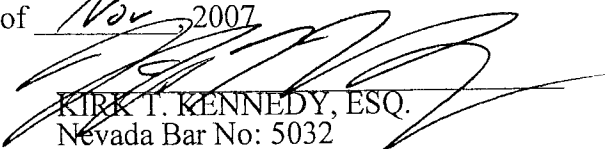
23. Plaintiff seeks such other and further relief as deemed appropriate by the Court related to this claim, including, but not limited to, relief from the Defendants rulings and orders.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff prays for judgment against the Defendants as follows:

1. For compensatory damages in an amount according to proof at trial, in excess of \$10,000.
2. For special damages in an amount according to proof at trial, in excess of \$10,000.
3. For declaratory relief as deemed appropriate.
4. For reasonable attorney's fees incurred herein.
5. For costs of suit and prejudgment interest.
6. For such other and further relief deemed appropriate by this Court.

Dated this 13 day of Nov, 2007


KIRK T. KENNEDY, ESQ.
Nevada Bar No: 5032
815 S. Casino Center Blvd.
Las Vegas, NV 89101
(702) 385-5534
Attorney for Plaintiff

AFFIRMATION REGARDING SOCIAL SECURITY NUMBERS

I hereby affirm that this document contains no social security numbers.

Dated this 13 day of Nov, 2007.


KIRK T. KENNEDY, ESQ.
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815 S. Casino Center Blvd.
Las Vegas, NV 89101
(702) 385-5534
Attorney for Plaintiff